

1937

c 225 Medical Act

Ontario

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3. *MEDICAL PROFESSION.*

CHAPTER 225.

The Medical Act.

College of
Physicians
and Surgeons
continued.

1. "The College of Physicians and Surgeons of Ontario," hereinafter called "the College," is continued as a body corporate, with power to acquire, hold and dispose of real and personal property for the purposes of this Act. R.S.O. 1927, c. 196, s. 1.

Members
thereof under
former Acts.

2. Every person registered, as a legally qualified medical practitioner under any Act heretofore passed or under this Act shall be a member of the College. R.S.O. 1927, c. 196, s. 2.

Council of
the College
of Physicians
and Sur-
geons.

3.—(1) There shall continue to be a council of the College hereinafter called "the Council," to be composed as follows:—

Minister of
Health.

(a) the Minister of Health for Ontario;

Representa-
tives from
universities,
colleges, etc.

(b) one member to be chosen from every university, college or body in Ontario which is authorized to conduct a course or courses in the science and art of medicine and to grant degrees in the same and which is conducting actively such course or courses in medicine at the present time, or from every university, college or body in the Province which is or may be hereafter authorized and established under the above conditions;

Representa-
tives of
homœo-
pathy.

(c) one member resident in Ontario to be duly elected by the licensed practitioners in homœopathy;

Elected
members.

(d) ten members to be elected in the manner hereinafter provided from amongst and by the registered members of the profession other than those mentioned in clauses *a*, *b* and *c*. R.S.O. 1927, c. 196, s. 3 (1); 1932, c. 22, s. 2 (1, 2); 1933, c. 31, s. 2.

(2) No teacher, professor or lecturer of any of the bodies mentioned in subsection 1 shall hold a seat in the Council except as a representative of the body to which he belongs. R.S.O. 1927, c. 196, s. 3 (2).

(3) Every member of the Council, appointed under subsection 1 shall be a legally qualified medical practitioner resident in Ontario. R.S.O. 1927, c. 196, s. 3 (3); 1932, c. 22, s. 2 (3).

(4) Each of the ten members to be elected as aforesaid shall be a resident of the territorial division for which he is elected, and any member who, during the term for which he is elected, ceases to reside in the division for which he is elected shall thereby vacate his office as such member. R.S.O. 1927, c. 196, s. 3 (4); 1932, c. 22, s. 2 (4).

(5) One member shall be so elected from each of the territorial divisions numbered 1 to 8 inclusive and two members shall be elected from territorial division number 9 mentioned in Schedule A by the registered practitioners of medicine resident in such division, and the manner of holding such election shall, with respect to the time thereof and the taking of the votes therefor, be determined by a by-law to be passed by the Council, and in default of such by-law being passed the Lieutenant-Governor in Council shall prescribe the time and manner of holding such election. 1932, c. 22, s. 2 (5).

4.—(1) The members of the Council other than the Minister of Health for Ontario shall be elected or appointed, as the case may be, for a period of four years or until their successors are elected or appointed, but any member may resign at any time by letter addressed to the president or registrar of the Council, and upon the death or resignation of any member of the Council, it shall be the duty of the registrar forthwith to notify the body in respect to which the vacancy has occurred, of the death or resignation, and such body shall have the power to nominate another duly qualified person to fill the vacancy; or if the vacancy be caused by the death or resignation of any member elected from a territorial division, or by his becoming disqualified owing to his having ceased to reside therein, or in case a new election is requisite on account of a decision of the judge upon a contested election, the registrar shall forthwith cause a new election to be held in such territorial division, and the election shall be conducted in accordance with the by-laws and regulations of the Council, but it shall be lawful for the Council during such vacancy to exercise the powers hereinafter mentioned. R.S.O. 1927, c. 196, s. 4 (1); 1932, c. 22, s. 3 (1).

Vacancies in respect of homœopathic members of the Council.

(2) In the event of the death or resignation of any member of the Council representing the practitioners of the homœopathic system of medicine, the remaining practitioners of the homœopathic system in Ontario may fill such vacancy by selecting from amongst the duly registered practitioners resident in Ontario and actually engaged in the practice of homœopathy, a person to fill the vacancy. R.S.O. 1927, c. 196, s. 4 (2); 1932, c. 22, s. 3 (2).

Notice of date of nomination.

(3) The registrar shall, not more than sixty nor less than forty days before the time for receiving nominations for any quadrennial election under this Act, notify by letter or post card every registered medical practitioner in Ontario of the date of receiving such nominations, and in case of an election to fill a vacancy the registrar shall, not more than thirty nor less than fifteen days before the time for receiving nominations, notify by letter or post card every registered medical practitioner entitled to vote thereat of the date of receiving nominations to fill the vacancy. 1932, c. 22, s. 3 (3).

Persons entitled to vote.

5. The persons entitled to vote under this Act at any election shall be all duly registered practitioners resident in Ontario. R.S.O. 1927, c. 196, s. 5; 1932, c. 22, s. 4.

Transfer to different class on voters' list.

6.—(1) Any member of the College may have his name transferred from one class of voters to any other class on his presenting to the registrar a certificate authorized by the executive committee and duly signed by its chairman testifying that the member so applying to have his name transferred has shown a sufficient knowledge of the system of medicine with which he desires to connect himself to entitle him to be admitted to the class to which he desires to be transferred and on being so admitted he shall be entitled to vote in that class only. 1932, c. 22, s. 5.

Fee on transfer.

(2) There shall be payable to the registrar for such transfer a fee of \$2.

Return of voter to former class.

(3) No member shall, without the sanction of the Council, be entitled to return to the class from which he has been so transferred, and no member shall at any time be entitled to vote in more than one class of the voters who, in accordance with the provisions of this Act, vote in the election of the members of the Council. R.S.O. 1927, c. 196, s. 6 (2, 3).

Not to vote in more than one class.

Disputed elections, how dealt with.

7. In case of any doubt or dispute as to the legality of the election of any member of the Council, it shall be lawful for the Council to hold an inquiry and decide who is the legally elected member of the Council, and the person whom they decide to have been elected shall be and be deemed

to be the member legally elected, and if the election is found to have been illegal the Council shall have power to order a new election. R.S.O. 1927, c. 196, s. 7.

8.—(1) In case the validity of the election of any member of the Council is contested, the same shall be tried by the judge or junior or acting judge of the county or district court of the county or district in which the person whose election is complained of resides, and the proceedings thereon shall *mutatis mutandis* be the same as nearly as may be, as in the case of municipal elections under the sections of *The Municipal Act* relating to controverted elections, but no security by the complainant shall be necessary. Controverted elections.
Rev. Stat. c. 266.

(2) Any person qualified to vote at the election complained of may be the relator in proceedings under this section. Who may be relator.

(3) The decision of the judge shall be final. R.S.O. 1927, c. 196, s. 8. Decision final.

9.—(1) The Council may make rules and regulations as to the times and places of meetings of the Council, and the mode of summoning the same, and in the absence of any rule or regulation as to the summoning of meetings the president or vice-president or, in the event of his absence or death, the registrar may summon a meeting to be held at such time and place as to him seems fit, by letter mailed to each member. R.S.O. 1927, c. 196, s. 9 (1); 1932, c. 22, s. 6 (1). Meetings of the Council.

(2) In the event of the absence of the president from any meeting, the vice-president or, in his absence, some other member to be chosen from among the members present shall act as chairman. R.S.O. 1927, c. 196, s. 9 (2); 1932, c. 22, s. 6 (2). Absence of president.

(3) All questions shall be decided by the majority of the members present, and seven members shall form a quorum of the Council. R.S.O. 1927, c. 196, s. 9 (3); 1932, c. 22, s. 6 (3). Majority.

(4) At all meetings the chairman shall in the case of an equality of votes have a casting vote in addition to the vote he is entitled to as a member. 1932, c. 22, s. 6 (4). Casting vote.

10. There shall be paid to the members of the Council such fees for attendance, and such reasonable travelling expenses, as may be fixed by by-law of the Council. R.S.O. 1927, c. 196, s. 10. Payment to members of the Council.

11. The Council shall annually elect a president and vice-president from among its members and shall also appoint a registrar-treasurer and such other officers as may from time Appointment of officers.

to time be necessary for giving effect to this Act, who shall hold office during the pleasure of the Council, and the Council may fix the salaries or fees to be paid to such officers, and to the board of examiners hereinafter mentioned. 1932, c. 22, s. 7.

Executive
committee.

12. The Council shall appoint annually from among its members an executive committee, to take cognizance of, and action upon, all such matters as may be delegated to it by the Council or as may require immediate interference or attention between the adjournment of the Council and its next meeting, and all such acts shall be valid only until the next ensuing meeting of the Council; but the committee shall have no power to alter, repeal or suspend any by-law of the Council. R.S.O. 1927, c. 196, s. 12.

DIVISION ASSOCIATIONS.

Territorial
division
medical
associations.

13.—(1) In each of the territorial divisions described in Schedule A there may be established a territorial division medical association, which may be called the division association of such division.

Member-
ship.

(2) Every member of the College resident within the territorial division, shall be a member of the division association, and the representative elected to the Council for the territorial division shall be *ex officio* chairman of the division association. R.S.O. 1927, c. 196, s. 13.

MEDICAL EDUCATION.

Matricula-
tion or pre-
liminary ex-
aminations.

14.—(1) The Council shall have power and authority to appoint examiners for the admission of all students to the matriculation or preliminary examination, and may make by-laws and regulations for determining the admission and enrolment of students; but any change in the curriculum of studies fixed by the Council shall not come into effect until one year after such change is made. R.S.O. 1927, c. 196, s. 14 (1).

Homœo-
pathists.

(2) Until a homœopathic medical college for teaching purposes is established in Ontario, candidates wishing to be registered as homœopathists shall pass the matriculation examination referred to in subsection 1 as the preliminary examination for all students in medicine, and shall present evidence of having spent the full period of study required by the curriculum of the Council in a duly approved homœopathic medical college under the supervision of a duly registered homœopathic practitioner.

(3) Such candidates must also have complied with the full curriculum of studies, prescribed from time to time by the Council for all medical students, but the full time of attendance upon lectures and hospitals required by the curriculum of the Council, may be spent in such homœopathic medical colleges in the United States of America or in Europe as may be recognized by a majority of the homœopathic members of the Council, provided only that the time so spent shall not be less in length than that required of other students; but in all homœopathic colleges, where the winter course of lectures is of only four months' duration, certified tickets of attendance on one such course shall be held to be equivalent to two-thirds of one six-months course as required by the Council, and when such teaching body has been established in Ontario it shall be optional for such candidates to pursue in part or in full the required curriculum in Ontario. 1932, c. 22, s. 8.

15. The Council may make by-laws as to the terms upon which it will receive the matriculation and other certificates of colleges and other institutions not in Ontario. R.S.O. 1927, c. 196, s. 15.

16.—(1) Graduates in arts of any university in His Majesty's Dominions shall not be required to pass the preliminary examinations. R.S.O. 1927, c. 196, s. 16 (1).

(2) Where the Council adopts a lower standard for matriculation than that required for graduation in arts, such standard shall conform to the present departmental middle school examination (pass matriculation) or its equivalent. 1932, c. 22, s. 9.

17. The Council may prescribe a curriculum of studies to be pursued by the students, and such curriculum of studies shall be observed and taught by all bodies referred to in section 3. R.S.O. 1927, c. 196, s. 17.

MEDICAL REGISTRATION.

18.—(1) The Council shall cause to be kept by the registrar a book or register, in which shall be entered the name of every person registered according to the provisions of this Act, and, the names of all persons who have complied with the enactments hereinafter contained, and with the rules and regulations made or to be made by the Council respecting the qualifications to be required from practitioners of medicine, surgery and midwifery in Ontario.

Only
registered
persons to
practise.

(2) Those persons only whose names are inscribed in the book or register mentioned in subsection 1, shall be deemed to be qualified and licensed to practise medicine, surgery or midwifery in Ontario, except as hereinafter provided.

Inspection
of register.

(3) The book or register shall at all times be open, and subject to inspection by any duly registered practitioner in Ontario, or by any other person. R.S.O. 1927, c. 196, s. 18.

Registrar
to keep
register
correct.

19.—(1) The registrar shall keep the register correct and in accordance with this Act, and the orders and regulations of the Council, and shall erase the names of all registered persons who have died, and make the necessary alterations in the addresses and qualifications of the persons registered under this Act.

Written
inquiry by
registrar.

(2) To enable the registrar duly to fulfil the duties imposed upon him, he may, by letter sent by registered post addressed to any registered person according to his address on the register, inquire whether such person has ceased to practise or has changed his residence, and if no answer to such letter is received within the period of six months from the mailing thereof the registrar may erase the name of such person from the register; but such name shall be restored to the register on compliance with the other provisions of this Act. R.S.O. 1927, c. 196, s. 19.

Admitting
medical
practitioners
registered
in Great
Britain.

20. The Council may admit to registration medical practitioners duly registered in The Medical Register of the United Kingdom, or in any register of persons entitled to practise in any part of the British Empire, upon such terms and conditions as the Council may from time to time deem expedient, having regard not only to the qualification of applicants for registration, but also to such rules, regulations and conditions as may be from time to time in force regarding the reciprocal admission to The Medical Register of the United Kingdom or other register as aforesaid of medical practitioners registered according to the provisions of this Act. R.S.O. 1927, c. 196, s. 20 (1).

Qualifica-
tions.

21. Every person desirous of being registered under this Act shall, before being entitled to registration, be possessed of such qualifications as the orders, regulations or by-laws of the Council may provide and shall have complied therewith. 1934, c. 29, s. 2.

Examina-
tions held
under the
Canada
Medical Act,
R.S.C.,
c. 129.

22.—(1) The Council may by by-law provide that persons applying for registration shall pass the examinations conducted by the Medical Council of Canada pursuant to the

provisions of the *Canada Medical Act* and produce a certificate of qualification from such last mentioned Council.

(2) During the time a by-law passed under the authority of subsection 1 remains in force and the Medical Council of Canada conducts annual examinations in Ontario, the Council shall not be required to appoint examiners or conduct examinations as provided in sections 24, 25 and 26. 1934, c. 29, s. 3. Provincial examinations suspended.

23. When and as soon as it appears that there has been established in any other Province of the Dominion of Canada a central examining board similar to that constituted by this Act, or an institution duly recognized by the Legislature of such other Province as the sole examining body for the purpose of granting certificates of qualification, and wherein the curriculum is equal to that established in Ontario, the holder of any such certificate shall be entitled to registration by the Council upon the production of his certificate if the same privilege is accorded by such examining board or institution to those holding certificates in Ontario. R.S.O. 1927, c. 196, s. 23. Registration of persons from other Provinces of the Dominion.

24.—(1) At the annual meeting of the Council in each year, there shall be elected a board of examiners, whose duty it shall be to examine, at least once in each year, all candidates for registration in accordance with the by-laws, rules and regulations of the Council. R.S.O. 1927, c. 196, s. 24 (1). Board of examiners.

(2) The board of examiners shall be composed as follows: One member from each of the medical teaching bodies now existing or hereafter authorized and established as referred to in section 3 and not less than a like number of members to be chosen from among those members of the College who are not connected with any of the above teaching bodies. 1932, c. 22, s. 11. Examiners, how appointed.

25. The examinations shall be held at Toronto at such times and in such manner as the Council by by-law directs and may also be held at Kingston and London if not less than ten candidates apply for examination at such cities. 1932, c. 22, s. 12. Where examinations to be held.

26. A candidate who, at the time of his examination, signifies his wish to be registered as a homœopathic practitioner, shall not be required to pass an examination in either materia medica, or therapeutics, or in the theory or practice of physic, or in surgery or midwifery, except the operative practical parts thereof, before any examiners other than those Examinations of homœopaths.

approved of by the representatives in the Council of the homœopathic system. R.S.O. 1927, c. 196, s. 26.

Power of
Council to
make rules,
etc.

27.—(1) The Council shall from time to time as occasion may require, make such orders, regulations or by-laws as may be necessary,—

(a) respecting the registers to be kept under this Act, and the fees to be paid for registration; and

(b) for the guidance of the board of examiners.

As to ex-
aminations.

(2) The Council may prescribe the subjects and modes of the examinations, the time and place of holding the same, and generally may make all such rules and regulations in respect of such examinations not contrary to the provisions of this Act, as they deem expedient and necessary. R.S.O. 1927, c. 196, s. 27.

Additional
qualification
or degree.

28. Every person registered under this Act who obtains any higher degree or any qualification other than the qualification in respect of which he has been registered, shall, on the payment of such fees as the Council may prescribe, be entitled to have such higher degree or additional qualification inserted in the register in substitution for, or in addition to, the qualification previously registered. R.S.O. 1927, c. 196, s. 28.

Registrar to
be satisfied
as to quali-
fication.

29.—(1) No qualification shall be entered on the register either on the first registration or by way of addition to a registered name unless the registrar is satisfied by proper evidence that the person claiming is entitled to it, and any appeal from the decision of the registrar may be decided by the Council, and any entry proved to the satisfaction of the Council to have been incorrectly made, may be erased from the register by an order in writing of the Council.

Appeal to
the Council.

Evidence
on oath.

(2) In the event of the registrar being dissatisfied with the evidence adduced by the person claiming to be registered, he shall have the power, subject to an appeal to the Council, of refusing registration until the person claiming to be registered has furnished such evidence duly attested by oath, before the judge of a county or district court. R.S.O. 1927, c. 196, s. 29.

Erasing
names from
register.

30.—(1) Where any registered medical practitioner has either before or after he is registered been convicted either in His Majesty's Dominions or elsewhere of an offence, which, if committed in Canada, would be an indictable offence, or been guilty of any infamous or disgraceful conduct in a professional respect, such practitioner shall be liable to have his name erased from the register.

(2) The Council or the executive committee may, and upon the application of any four registered medical practitioners shall, cause inquiry to be made into the case of a person alleged to be liable to have his name erased under this section, and on proof of such conviction or of such infamous or disgraceful conduct, the Council shall cause the name of such person to be erased from the register; but the name of a person shall not be erased under this section on account of his adopting, or refraining from adopting, the practice of any particular theory of medicine or surgery, nor on account of a conviction for a political offence out of His Majesty's Dominions, nor on account of a conviction for an offence which though within the provisions of this section ought not, either from the trivial nature of the offence, or from the circumstances under which it was committed, to disqualify a person from practising medicine or surgery.

Action by Council.

Saving.

(3) The Council may order to be paid out of any funds at their disposal such costs as to them may seem just to any person against whom any complaint has been made which when finally determined, is found to have been frivolous and vexatious. R.S.O. 1927, c. 196, s. 30 (1-3).

Order for payment of costs to respondent.

(4) Upon receipt of proof of the finding or decision of any court of record in the Dominion of Canada, civil or criminal, that a criminal offence has been committed in connection with the practice of his profession by any registered medical practitioner, the registrar shall immediately erase from the register the name of such practitioner. 1932, c. 22, s. 13.

Removal from register after conviction by court.

31.—(1) Where the Council directs the erasure from the register of the name of any person, or of any other entry, the name of that person or that entry shall not be again entered on the register, except by the direction of the Council, or by the order of the Court of Appeal.

Restoring names to register after erasure.

(2) If the Council think fit in any case, they may direct the registrar to restore to the register any name or entry erased therefrom either without fee or on payment of such fee, not exceeding the registration fee, as the Council may from time to time fix, and the registrar shall restore the same accordingly. R.S.O. 1927, c. 196, s. 31.

Restoration by Council.

32.—(1) In the cases mentioned in subsection 1 of section 30, the Council, instead of directing the erasure from the register of the name of any person, may direct that the registration of such person be suspended for such period as the Council may deem proper, and during the period of such suspension it shall be unlawful for the person suspended to

Suspension of registration.

engage in the practice of medicine in Ontario, and he shall during the said period be deemed to be unregistered.

Practising
while sus-
pended.

(2) If such person engages in the practice of medicine during the period of such suspension, he shall incur the penalty provided by section 47.

Application
of other
provisions
to sus-
pension.

(3) Sections 33 to 37 shall apply to the suspending of any person under the provisions of this section in the same manner as to the erasing from the register of the name of any person. R.S.O. 1927, c. 196, s. 32.

Committee
for erasing
and restor-
ing names.

33.—(1) The Council shall for the purpose of exercising in any case the powers of erasing from and of restoring to the register the name of any person or any entry, ascertain the facts of such case by a committee of their own body not exceeding five in number, of whom the quorum shall be not less than three, and a written report of the committee may be acted upon for the purpose of the exercise of such powers by the Council.

Appoint-
ment.

(2) The Council shall from time to time appoint, and shall always maintain a committee for the purposes of this section, and subject to the provisions of this section, may from time to time determine the constitution, and the number and tenure of office of the members of the committee. R.S.O. 1927, c. 196, s. 33 (1, 2).

Procedure.

(3) The committee shall meet from time to time for the despatch of business and subject to the provisions of this section, and of any regulations from time to time made by the Council, may regulate the summoning, notice, place, management and adjournment of such meetings, the appointment of a chairman, the mode of deciding questions and generally the transaction and management of business including the quorum, and if there is a quorum the committee may act notwithstanding any vacancy in their body and in case of a vacancy the committee may appoint a member of the Council to fill the vacancy until the next meeting of the Council, and if through illness or for any other reason a member of this committee is unable or unwilling to act, the president, or in his absence the vice-president, shall have power to appoint a member in his place.

Legal assist-
ance, etc.

(4) The committee may, for the purpose of the execution of their duties under this Act, employ, at the expense of the Council, such legal or other assessor or assistant as the committee may think necessary or proper, and the person whose conduct is the subject of inquiry shall also have the right to be represented by counsel, and all meetings of any

Right
to counsel.

such committee when held for taking evidence or otherwise ascertaining the facts shall be held either within the county where the member complained of resides or the alleged offence was committed or at the City of Toronto as may be determined by the registrar. 1932, c. 22, s. 14.

(5) At least two weeks before the first meeting of the committee to be held for taking the evidence or otherwise ascertaining the facts, a notice shall be served upon the person whose conduct is the subject of inquiry, and such notice shall embody a copy of the charges made against him or a statement of the subject matter of the inquiry, and shall also specify the time and place of such meeting.

(6) The testimony of witnesses shall be taken under oath, to be administered by the chairman or acting chairman of the committee, and there shall be full right to cross examine all witnesses called and to call evidence in defence and reply.

(7) In the event of the non-attendance of the person whose conduct is the subject of such inquiry, the committee may, upon proof of personal service of the notice aforesaid in accordance with the provisions of this section, which proof of service may be by statutory declaration, proceed with the subject matter of the inquiry in his absence and may make their report of the facts without further notice to such person.

(8) The notice required by subsection 5 shall be deemed to have been duly served in accordance with the provisions thereof if sent by registered mail, prepaid, to the address of the person required to be served, as last entered upon the register. R.S.O. 1927, c. 196, s. 33 (5-8).

34. No action shall be brought against the Council or the committee for anything done *bona fide* under this Act, notwithstanding any want of form in the proceedings, but any person whose name has been ordered to be erased from the register may appeal from the decision of the Council to the Court of Appeal, at any time within six months from the date of the order for such erasure, and the Court may, upon the hearing of the appeal, make such order as to the restoration of the name so erased or confirming such erasure, or for further inquiry by the committee or Council into the facts of the case, and as to costs as the Court shall deem just. R.S.O. 1927, c. 196, s. 34.

35. The appeal may be by motion, notice of which shall be served upon the registrar, and shall be founded upon a copy of the proceedings before the committee, the evidence taken, the committee's report and the order of the Council in the matter, certified by the registrar, and the registrar shall,

upon the request of any person desiring to appeal, and upon payment of the cost thereof furnish to any such person a certified copy of all proceedings, reports, orders and papers, upon which the committee have acted in making the order complained of. R.S.O. 1927, c. 196, s. 35; 1932, c. 22, s. 15.

Evidence
before com-
mittee for
erasing and
restoring
names.

36. Upon any inquiry under section 30 either party may, without leave or order, obtain from the Supreme Court a subpoena commanding the attendance and examination of any witness and also the production of any documents the production of which could be compelled at the trial of an action, to and before the committee and at the time and place mentioned in the subpoena, and disobedience to the subpoena shall be deemed a contempt of Court, but the person whose attendance is required shall be entitled to the like conduct money and payment of expenses and for loss of time as upon attendance at a trial. R.S.O. 1927, c. 196, s. 36.

Costs of
proceedings.

37. In case of the erasure of a name under the preceding provisions of this Act, the Council may direct the costs of and incidental to such erasure to be paid by the party whose name has been directed to be erased, which costs shall first be taxed by one of the taxing officers of the Supreme Court upon whose certificate execution may issue for the collection of such costs by the College, out of the Supreme Court as upon a judgment in an action in such Court. R.S.O. 1927, c. 196, s. 37.

Rights of Registered Practitioners.

Rights of
registered
persons.

38. Every person registered under the provisions of this Act shall be entitled according to his qualification or qualifications to practise medicine, surgery or midwifery, or any of them, as the case may be, in Ontario, and to demand and recover in any court reasonable charges for professional aid, advice and visits and the cost of any medicine or other medical or surgical appliances rendered or supplied by him to his patients. R.S.O. 1927, c. 196, s. 38.

Limitation
of actions
for neglig-
ence.

39. No duly registered member of the College shall be liable to any action for negligence or malpractice, by reason of professional services requested or rendered, unless such action is commenced within one year from the date when in the matter complained of such professional services terminated. R.S.O. 1927, c. 196, s. 39.

Publication of Register.

Register to
be printed
and pub-
lished.

40.— (1) The registrar shall from time to time under the direction of the Council cause to be printed and published a correct register of the names in alphabetical order according

to the surnames, with the respective residences in the form set forth in Schedule B, or to the like effect, with the titles, diplomas and qualifications of medical character and the dates thereof, of all persons appearing on the register as existing on the day of publication and such register shall be called "The Ontario Medical Register." R.S.O. 1927, c. 196, s. 40 (1); 1932, c. 22, s. 16.

(2) A copy of such register for the time being purporting to be printed and published as aforesaid, shall be *prima facie* evidence in all courts, and before all justices of the peace, and others, that the persons therein specified are registered according to the provisions of this Act, and, subject to the provisions of subsection 3, the absence of the name of any person from such copy shall be *prima facie* evidence that such person is not registered according to the provisions of this Act. Register to be *prima facie* evidence in all courts.

(3) In the case of any person whose name does not appear in such copy, a certified copy under the hand of the registrar, of the entry of the name of such person on the register, shall be evidence that such person is registered under the provisions of this Act. R.S.O. 1927, c. 196, s. 40 (2, 3). Certified copy of entry of name.

Annual Fees and Certificates.

41.—(1) Every member of the College shall pay to the registrar or to any person deputed by the registrar to receive it, such annual fee, not being less than \$1 nor more than \$2, as may from time to time be determined by by-laws of the Council passed as in this section is provided, to be applied towards the general expenses of the College, which fee shall be due on and from the 1st day of January in the year in which the same is imposed, and such fee shall be deemed to be a debt due by each member to the College, and shall be recoverable with costs of suit in the name of the College of Physicians and Surgeons of Ontario, in the division court of the division in which the member resides. Annual fee.

(2) The Council may by by-law prescribe means of collecting and enforcing the payment of the said annual fee. R.S.O. 1927, c. 196, s. 41. Collection of fee.

42.—(1) Every registered medical practitioner shall obtain from the registrar annually, in the month of January, a certificate under the seal of the College, that he is a duly registered medical practitioner. R.S.O. 1927, c. 196, s. 42 (1); 1932, c. 22, s. 17 (1). Annual certificate.

(2) Upon payment of all fees and dues payable by such medical practitioner to the College the registrar shall write his name on the margin of the certificate and the date thereof Issue of certificate.

and the certificate shall be deemed to be issued only from such date.

Certificate
not to issue
until fees
paid.

(3) No certificate shall be issued to any practitioner who is indebted to the College for any sums payable to the College, nor until the annual fee for such certificate prescribed by the by-laws of the College under this Act is paid.

Penalty for
not taking
out annual
certificate.

(4) If a practitioner omits to take out such annual certificate he shall not be entitled thereto until he pays to the College the certificate fee as aforesaid, together with any other fees or dues which he owes to the College.

Erasure of
name where
default made
for 12
months.

(5) After twelve months' default in taking out such certificate, and if two months' notice of such default be given by registered letter addressed to the registered address of such defaulter, the registrar shall, if payment has not been made by the defaulter, erase his name from the register, and the provisions of this Act as to unregistered medical practitioners shall forthwith apply to such medical practitioner. R.S.O. 1927, c. 196, s. 42 (2-5).

Re-registra-
tion upon
payment of
arrears.

(6) Such medical practitioner may, unless otherwise disqualified under this Act, at any time after his name is so erased by the registrar, obtain re-registration by applying to the registrar and paying \$2 in addition to all arrears of fees and dues under this Act, and taking out his certificate as herein provided, and he shall be thereupon reinstated to the full privileges enjoyed by other registered medical practitioners under this Act. R.S.O. 1927, c. 196, s. 42 (6); 1932, c. 22, s. 17 (2).

Power of
Council in
respect of
the pro-
visions of
ss. 41, 42.

43.—(1) The provisions of sections 41 and 42 shall only continue in force so long as a by-law of the Council, adopting the same remains in force, and the Council may repeal such by-law and may by by-law from time to time re-enact the said provisions in whole or in part, or with such modifications as the Council deems proper, subject always to the limit prescribed by section 41. R.S.O. 1927, c. 196, s. 43 (1).

Who may
vote on by-
laws under
this section.

(2) No member of the Council shall be entitled to vote on any by-law under this section except the elected members of the Council, five of whom at least must be present at the passing of the by-law. R.S.O. 1927, c. 196, s. 43 (2); 1932, c. 22, s. 18.

OFFENCES AND PENALTIES.

Those en-
titled to
register and
neglecting
to do so.

44. Any person entitled to be registered under this Act but who neglects or omits to be so registered, shall not be entitled to any of the rights or privileges conferred by registration, so long as such neglect or omission continues, and he

shall be liable to all the penalties imposed by this Act, or by any other Act in force against unqualified or unregistered practitioners. R.S.O. 1927, c. 196, s. 44.

45. If the registrar makes or causes to be made any wilful falsification in any matter relating to the register, he shall incur a penalty of \$50, and shall be disqualified from again holding the office of registrar. R.S.O. 1927, c. 196, s. 45. Penalty on registrar for falsification.

46.—(1) If any person procures or causes to be procured his registration under this Act, by means of any false or fraudulent representation or declaration, either verbal or in writing the registrar, upon the receipt of sufficient evidence of the falsity or fraudulent character of the said representation or declaration, shall represent the matter to the Council, and upon the written order of the president, attested by the seal of the College, shall erase the name of such person from the register, and make known the fact and cause of the erasure by notice to be published in the *Ontario Gazette*. Penalty for obtaining registration by fraud.

(2) After such notice has appeared the person whose name has been erased as aforesaid shall cease to be a member of the College and shall cease to enjoy any of the privileges conferred by registration under this Act, and shall not be entitled to enjoy the same at any future time, without the express sanction of the Council. Consequences of erasure.

(3) If any person wilfully procures or attempts to procure himself to be registered under this Act, by making any false or fraudulent representation or declaration, either verbally or in writing, he shall on conviction thereof before any justice of the peace incur a penalty not exceeding \$100, and every person knowingly aiding and assisting him therein shall for such offence on conviction thereof incur a penalty of not less than \$20 nor more than \$50. R.S.O. 1927, c. 196, s. 46. Penalty.

47. No person not registered shall practise medicine, surgery or midwifery for hire, gain or hope of reward, and if any person not registered pursuant to this Act, for hire, gain or hope of reward practises or professes to practise medicine, surgery or midwifery, or advertises to give advice in medicine, surgery or midwifery, he shall incur a penalty of not less than \$25 nor more than \$100 for the first offence, and for any subsequent offence a penalty of not less than \$100 nor more than \$500. 1932, c. 22, s. 19, *part*. Penalty for practising without registration.

48. Any person who wilfully or falsely pretends to be a physician, doctor of medicine, surgeon or general practitioner, or assumes any title, addition or description other than he actually possesses and is legally entitled to, shall incur a Penalty for falsely pretending, etc.

penalty of not less than \$10 nor more than \$50 for the first offence and for any subsequent offence a penalty of not less than \$50 nor more than \$200. 1932, c. 22, s. 19, *part*.

Use of certain titles restricted.

49.—(1) Any person not registered pursuant to this Act who takes or uses any name, title, addition or description implying or calculated to lead people to infer that he is registered under this Act, or that he is recognized by law as a physician, surgeon, accoucheur or a licentiate in medicine, surgery or midwifery, or who assumes, uses or employs the title "Doctor," "Surgeon" or "Physician" or any affix or prefix indicative of such titles as an occupational designation relating to the treatment of human ailments or physical defects or advertises or holds himself out as such, shall incur a penalty of not less than \$25 nor more than \$100 for the first offence, and for any subsequent offence a penalty of not less than \$100 nor more than \$500. R.S.O. 1927, c. 196, s. 49 (1); 1932, c. 22, s. 20 (1).

Exceptions as to dentistry and pharmacy. Rev. Stat. c. 227.

(2) Subsection 1 shall not apply to any licentiate of dental surgery or any other person admitted to practise dentistry or dental surgery under the provisions of *The Dentistry Act*. R.S.O. 1927, c. 196, s. 49 (2); 1932, c. 22, s. 20 (2).

Not entitled to recover charges unless registered.

50. No person shall be entitled to recover any charge in any court for any medical or surgical advice, or for attendance, or for the performance of any operation, or for any medicine which he may have prescribed or supplied, unless he produces to the court a certificate that he was registered under this Act at the time the services were rendered, but this section shall not extend to the sale of any drug or medicine by any duly authorized chemist or druggist. 1932, c. 22, s. 21.

Public appointments only conferred on registered persons.

51. No person shall be appointed as medical officer, physician or surgeon in any branch of the public service of Ontario, or in any hospital or other charitable institution not supported wholly by voluntary contributions, unless he is registered under the provisions of this Act. R.S.O. 1927, c. 196, s. 51.

Certificates by unregistered persons invalid.

52. No certificate required by any Act now in force, or that may hereafter be passed, from any physician or surgeon or medical practitioner, shall be valid unless the person signing the same is registered under this Act. R.S.O. 1927, c. 196, s. 52.

Application of Rev. Stat. c. 136.

53. The penalties provided by this Act shall be recoverable under *The Summary Convictions Act*, and that Act shall apply to prosecutions for offences against this Act. R.S.O. 1927, c. 196, s. 53.

54. In any trial under this Act the burden of proof as to registration shall be upon the person charged. R.S.O. 1927, c. 196, s. 54. *Onus probandi.*

55. In all cases where proof of registration under this Act is required to be made, the production of a printed or other copy of the register, certified under the hand of the registrar shall be sufficient evidence of all persons who are registered practitioners, in lieu of the production of the original register, and any certificate upon such printed or other copy of the register, purporting to be signed by any person in his capacity of registrar under this Act shall be *prima facie* evidence that such person is the registrar, without any proof of his signature or of his being in fact the registrar. R.S.O. 1927, c. 196, s. 55. *Evidence of registry and signature of registrar.*

56. Every prosecution under this Act shall be commenced within one year from the date of the alleged offence. R.S.O. 1927, c. 196, s. 56. *Limitation of prosecutions.*

57. The Council by an order signed by the president having the seal of the College appended thereto, may stay proceedings in any prosecution under this Act where it is deemed expedient. R.S.O. 1927, c. 196, s. 57. *Stay of proceedings.*

58.—(1) All penalties recovered under this Act shall be paid to the convicting justice and by him paid to the registrar of the College, and shall form part of the funds thereof. *To whom penalties paid.*

(2) Any person may be prosecutor or complainant under this Act, and the Council may allot such portion of the penalties recovered as may be expedient towards the payment of such prosecutor. R.S.O. 1927, c. 196, s. 58. *Prosecutor.*

APPLICATION OF FUNDS.

59. All moneys forming part of the Council funds shall be paid to the treasurer, and may be applied to carry this Act into execution. R.S.O. 1927, c. 196, s. 59. *Council funds.*

APPLICATION OF CANADA MEDICAL ACT.

60. Subject to the provisos and conditions therein contained, The *Canada Medical Act* (Canada) and amendments thereto are accepted and shall apply to the Province of Ontario, and registration by the Medical Council of Canada shall be accepted as equivalent to registration for the like purposes under this Act. R.S.O. 1927, c. 196, s. 60; 1932, c. 22, s. 22. *Application of R.S.C. c. 129.*

SCHEDULE A.

TERRITORIAL DIVISIONS.

(CONSISTING OF THE FOLLOWING COUNTIES, DISTRICTS AND CITY)

- | | |
|---|---|
| 1—Essex
Kent
Lambton
Elgin | 6—Peterborough
Northumberland
Prince Edward
Hastings
Lennox and Addington
Frontenac
Renfrew
Leeds |
| 2—Middlesex
Norfolk
Oxford
Perth
Huron | 7—Lanark
Grenville
Carleton
Dundas
Stormont
Glengarry
Russell
Prescott |
| 3—Bruce
Grey
Dufferin
Waterloo
Brant
Wellington | 8—Haliburton
Muskoka
Parry Sound
Nipissing
Temiskaming
Sudbury
Algoma
Thunder Bay
Rainy River
Patricia
Kenora
Manitoulin |
| 4—Haldimand
Welland
Lincoln
Wentworth | 9—City of Toronto |
| 5—Simcoe
Halton
Peel
York
Ontario
Durham
Victoria | |

1932, c. 22, Sched. A; 1933, c. 31, s. 3.

SCHEDULE B.

FORM OF REGISTER.

<i>Name</i>	<i>Residence</i>	<i>Qualifications and Additions</i>
A.B.	Toronto, County of York.....	M.A., M.D., University of Toronto
C.D.	Kingston, County of Frontenac	M.A., M.D., Queen's University
E.F.	Etobicoke, County of York....	M.A., M.D., University of Western Ontario
G.H.	Toronto.....	M.A., M.D., University of Toronto

1932, c. 22, Sched. B.